

Serial No. 09/175,748

Blond
athlete a supplement comprising lipoic acid or a derivative thereof, and creatine or a derivative thereof.

REMARKS

By this Preliminary Amendment, applicants submit new Claims 11-27. Of those, Claims 15-24 are similar to original Claims 1-10 as amended by the amendment filed July 27, 2000, with certain minor differences in the introductory wording of such claims. New Claims 11-14 and 25-27 are the same as Claims 1-3, 36, 14, 24 and 25, respectively, of patent 6,136,339. Those seven claims are presented as proposed counts for the declaration of an interference requested in an accompanying Request for Interference with Patent under 37CFR §1.607.

In the accompanying Request, applicants apply the terms of new Claims 11-14 and 25-27 to the specification of this application. It is submitted that applicants' invention as disclosed fully supports such claims because applicants' food supplement includes as essential ingredients lipoic acid or a derivative thereof and creatine or a derivative thereof, and such supplement is disclosed as being intended for oral administration.

Referring to 37CFR §1.608(6), it will be observed that applicants' Claims 11-14 and 25-27, (proposed Counts 1-3, 7, and 4-6, respectively) are being presented by this amendment less than one year following the issue date of patent 6,136,339 (October 24, 2000). Also with respect to 37CFR §1.608(a), the difference between the effective filing date of that patent (August 21, 1998) and the effective filing date of this application (October 20, 1998) is considerably less than three months.

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ranges, that is simply not disclosed or suggested by the prior art.

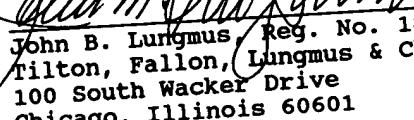
In view of the above, it is believed that applicants' claims as now amended overcome the Examiner's objections and are patentably distinguishable from the prior art of record. Favorable reconsideration of this application and allowance of the amended claims are therefore respectfully requested.

Very respectfully,

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